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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,411	11/02/2001	Ronald Breslow	3254.1002-028	7609

21005 7590 02/11/2003

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EXAMINER

COVINGTON, RAYMOND K

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 02/11/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,411

Applicant(s)

BRESLOW ET AL.

Examiner

Raymond Covington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9, 10-17, 20, 21, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1-18-19, 22-27, 30-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

In reply to applicants' response the status of the claims are as follows:

Claim 1(amended) is allowable.

Claim 2 (twice amended) is now an independent claim and recites integers from 5 to 7 and is allowable.

Claim 3 depends from claim 2 and is limited to the integer of 6 for which there are examples in the specification and is allowable.

Claims ^{4-8, 10}~~4-10~~ depend from claim 3, which does not recite integers, and are allowable.

Claims ¹¹~~11-12~~ depend form claim 2, does not recite integers and are allowable.

Claims 14-15 depend from claim 3, does not recite integers and are allowable.

Claims 16-17 depend on claim 2 and 16 and are allowable.

Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 18 and 19 recite the limitation "as 5 to about 8" is new matter and does

Claims 20-21 are allowed.

Claims 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22-27 recites the 4-pyridyl compounds and compositions do not find clear support and antecedent basis in the specification. See Rule 7 CFR 1-75(d)(1).

Claims 28-29 are allowed.

Claims 30 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 30 and 31 recite the limitation "5 to about 8" and do not find clear support and antecedent basis in the specification. See Rule 7 CFR 1-75(d)(1).

A supplemental Oath or Declaration relative to the additional errors that must be corrected during the prosecution is required under 37 CFR 1.175(b)(1), before this application can be allowed.

statement of Applicants must surrender the original patent in accordance with 37 CFR

loss in 1.178.

Case -

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Covington whose telephone number is (703) 308-4704. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. Rotman can be reached on (703) 308-0204. The fax phone numbers for the organization where this application or proceeding is

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assigned are (703) 308-7922 for regular communications and (703) 308-7922 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Raymond Covington
Examiner
Art Unit 1625

Rkc
Rkc
February 6, 2003

Alan L. Rotman
**ALAN L. ROTMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600**